One questioner asked about the impact of *Crawford v. Washington* on child protection statutes, such as admissibility of a child victim's statement.

Insofar as the question is related to Pen. Code § 868.8 relating to special provisions for children during testimony (*e.g.,* having a support person present, allowing closed proceedings in molestation cases involving children under 16), the case does not appear to have a direct effect—as long as the witness is subject to confrontation and cross-examination by defendant's attorney. But arguments by analogy will surely be made.

The exception in dependency cases is another matter. (See *In re Carmen O.* (1997) 17 Cal.4th 15.) The short answer is that *Crawford* and the Sixth Amendment pertain to criminal prosecutions, and dependency cases are civil. It might be argued that the interests involved are sufficiently important that *Crawford* hearsay principles should be applied in each. But I think that argument would be difficult to sustain because *Crawford* is based on the Sixth Amendment only. The very arguments that led to the court's construction of that provision probably would be used to rebut any claim that the case should extend to anything outside the Sixth Amendment.

Another questioner asked whether *Crawford* will impact felony preliminary hearings, particularly with respect to the portion of Proposition 115 that allows a police officer to read the victim's statements. (Cal. Const., art. I, § 30(b) and Evid. Code § 872(b).) Probably not, because the purpose of the preliminary hearing is to determine whether there is enough of a showing to justify binding the defendant over for felony trial, and hearsay is not prohibited for that purpose. But the officer's recitation of what a victim told the officer will not be admissible at trial for the truth of the matter asserted unless the victim had an opportunity to cross-examine the declarant, perhaps when the statement was made. That is hardly likely to occur. The key distinction is between a preliminary hearing and a trial.

The summary, three paragraphs up from the end of the *Crawford* opinion, says that whatever else is "testimonial," the term includes "prior testimony at the *preliminary hearing*, before a grand jury, or at a former trial and to police interrogations." It is commonplace in California trials for a party, typically the prosecution, to use testimony at trial from a preliminary hearing when the witness who gave it is " unavailable" (in the sense of Evid. Code § 240). Is the court now expressing doubt about that? The typical situation is one in which defense counsel has a full opportunity and motive to cross-examine the witness at the preliminary hearing. I suspect the better argument is that *Crawford* will not prevent that usage. But, you can be sure that the issue will be litigated.